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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,966	09/25/2003	Tae Ho Kim	1630-0426PUS1	7029
2292 7590 01/23/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
LU'ONG, ALAN H				
ART UNIT		PAPER NUMBER		
2427				
NOTIFICATION DATE		DELIVERY MODE		
01/23/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/670,966

Applicant(s)

KIM ET AL.

Examiner

ALAN LUONG

Art Unit

2427

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 2 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: _____.

01/16/2009

/Jason P Salce/
Primary Examiner, Art Unit 2421

Continuation sheet of 11:

Applicant respectfully submits that Otsuka does not disclose or suggest any of Applicant's features relating to plural operating states. Otsuka and DeCarmo both fail to disclose or suggest N (operating states) = [X playback states associated with re-producing A/V data recorded on the recording medium] x [Y operation states associated with processing additional data]. That is, while there may be multiple operating states in deCarmo, there is no relationship between the operating states as recited in Applicant's independent claims. Finally, the conventional an of software polymorphism described by deCarmo is not relevant to Applicant's claimed subject matter. (Remarf, page 6). Examiner respectfully disagrees .

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642F. 2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F. 2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In this case, Otsuka discloses the first operation mode as playback mode and the second operation mode as user agent mode and DeCarmo teaches a navigation engine (206 of FIG.2) which controls DVD player with plurality of operating states. Additional, DeCarmo also clarifies the Polymorphism method is a concept which allows objects (a unit A and unit B) and functions which have the same overall format (as PLAY, STILL or PAUSE and STOP) but which work with different data (different modes as invention), to function differently in order to produce consistent results at engine [220] (Fig. 3, col. 6 line 63-col. 8 line 7). Polymorphism method is well-known in the art to combine sum of 2 different objects, each object has X and Y functions with the same format, respectively. It would have been obvious to one with ordinary skill in the art to use a mechanism as Polymorphism method to prove $N=X.Y$ as respect to claim 1. The examiner believes above explanation to fairly prove that DeCarmo reference is modified with Otsuka, this combination shows related to invention claimed algebraic expression $N= XxY$.

Finally, Applicant respectfully submits that the conventional an of software polymorphism described by deCarmo is not relevant to Applicant's claimed subject matter. (Remarf, page 6)

Examiner respectfully disagrees in response:

DeCarmo clarifies the software elements of an improved navigation system for digital versatile disc systems are implemented using object-oriented programming techniques. As will be understood by those skilled in the art, Object-Oriented Programming (OOP) techniques involve the definition, creation, use and destruction of "objects". The principle benefits of object-oriented programming techniques arise out of three basic principles; encapsulation, polymorphism and inheritance. (col. 6 lines 8-13 and 44-46). This merely proves that the conventional an of software polymorphism described by deCarmo is relevant to an improved navigation system for digital versatile disc systems as same as Applicant's claimed subject matter.

Therefore, it is respectfully submitted that a prima facie case of obviousness has in fact been established and the rejection should be sustained.

A.L.
Jan 15, 2009